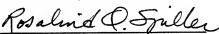


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Angelina McMullin Confirmation No.: 5527
Serial No.: 10/607,127 Group Art Unit: 2176
Filed: 06/26/2003 Examiner: Bashore, William L.
Title: FACILITATING THE DEVELOPMENT OF COMPUTER PROGRAMS

CERTIFICATE OF ELECTRONIC TRANSMISSION

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Rosalind Q. Spiller

Date of Signature: May 20, 2008.

To: Mail Stop Appeal Briefs – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

APPELLANT'S REPLY BRIEF TO THE BOARD OF
PATENT APPEALS AND INTERFERENCES

This Reply Brief is being timely filed pursuant to 37 C.F.R. §41.41 in rebuttal to certain characterizations and conclusions set forth in the Answer showing a mailing date of March 20, 2008, with a Reply due by May 20, 2008, and which is therefore timely filed, for the above-designated Appeal. No fee is believed due for this Reply Brief.

ARGUMENT

Pages 3-12 of the Answer repeat the rejections of the final Office Action. Appellant's remarks in this Reply Brief address the remarks made in the Answer beginning at item (10) on page 12.

Non-Analogous Art

Becerra

The steps for determining whether a particular piece of prior art is non-analogous art are well settled. See Appeal Brief, beginning at page 9. In addition, it is also well settled that the test must be applied to each reference individually that is included in an obviousness rejection. The Answer fails to follow both of these well-settled principles of determining non-analogous art.

With regard to Becerra, Appellant submits that a tool is disclosed therein for creating a simulation, but that the tool is not something facilitating program development. Thus, Appellant maintains that Becerra is not within the field of Appellant's endeavor.

With regard to whether Becerra is reasonably pertinent to the problem the present invention seeks to solve, the problem is clearly set out in the background of the present application as the need to utilize the functionality of a spread sheet within a program without coding a separate program to capture the logic. However, capturing the logic from the spreadsheet is precisely what Becerra does. See, for example, numbered paragraph 0011 of Becerra.

The Answer goes on to explain how the combination of Becerra and Devine is reasonably pertinent to the problem presented by the present invention. However, it is well-settled that the determination of non-analogous art is based on a single piece of prior art on its own, without regard to other art. See the non-analogous art test set out in Appellant's Appeal Brief. Appellant submits that the fact that resort to a secondary reference is necessary is alone quite telling regarding whether Becerra is non-analogous art.

Further, the Answer, at the top of page 14 thereof appears to allege that since Becerra and Devine both mention spreadsheets, then Becerra is somehow analogous art. However, as previously noted, this fails to follow the clear steps of the non-analogous art test.

Therefore, for the reasons above and in the Appeal Brief, Appellant maintains that Becerra is improperly cited against the present application as non-analogous art.

Devine

With regard to Devine, the Answer again fails to follow the non-analogous art test. Instead, the Answer focuses on the purpose for combining Devine with Becerra. However, as noted above, each reference in an obviousness rejection must by itself be analogous to the patent application against which it is cited.

Appellant continues to submit that decentralized RAR services to interconnected desktop and mobile users is not within the field of facilitating the development of computer programs. Thus, Devine is not within the field of Appellant's endeavor. In addition, Appellant maintains that since Devine teaches using the spreadsheet to interface with the user, it is not reasonably pertinent

to the need to utilize the functionality of a spreadsheet within a program without coding a separate program to capture the logic.

Therefore, for the reasons above and in the Appeal Brief, Appellant continues to submit that Devine is improperly cited against the present application as non-analogous art.

Mujica

As with Devine, Appellant submits that the Answer with respect to Mujica fails to follow the non-analogous art test. Appellant continues to submit that Mujica, being directed to locking cells in a spreadsheet, is not within the field of facilitating the development of computer programs.

Further, Appellant continues to submit that Mujica is not reasonably pertinent to the problem of the need to utilize the functionality of a spreadsheet within a program without coding a separate program to capture the logic, since Mujica simply involves locking cells of a spreadsheet.

Therefore, for the reasons above and in the Appeal Brief, Appellant maintains that Mujica is improperly cited against the present application as non-analogous art.

Obviousness – Becerra, Devine and Mujica

With regard to claim 1 (and related claims 19 and 29), the Answer alleges that “Becerra uses spreadsheet data, and generates mathematical formulas which simulate spreadsheet functionality.” However, Appellant respectfully points out that Becerra does not generate mathematical formulas; rather, Becerra imports them along with algorithms and data during the control panel creation process:

The underlying simulation is generated based on spreadsheet cells selected by the user during the control panel creation process. When cells are selected, any underlying algorithms or mathematical formulas associating input data values with output data values are automatically imported into the control panel file. Thus the algorithms and mathematical relationships originally created using the spreadsheet program are automatically replicated in the control panel file as a mathematical model of the relationship between selected input and output cells.

Thus, Appellant submits that Becerra truly is an animation without need for the presence of a spreadsheet. Moreover, since Becerra merely imports mathematical formulas, the alleged justification for importing the spreadsheet of Devine into Becerra (i.e., providing a test of the accuracy of the generated formulas) is simply not necessary in Becerra. Further, as noted in Becerra at numbered paragraph 0008:

There is a further need for a method and system that allows users to associate externally-created graphics with input and output data of a business application software program so as to create a dynamic and interactive computer graphics file representative of the input and output data, wherein the computer graphics file may be executed by a standalone program that is *independent of the business application software program*.

Emphasis added. Thus, one of the stated purposes of Becerra is to address the above-noted need with a standalone program that is independent of the spreadsheet.

With regard to the application of Mujica to Becerra against claim 1, the Answer alleges that even if it were true that locking data cells would result in the Becerra input data controls not being able to change the input within the predetermined range, “there is no reason why it would not be possible (or reasonable) for the skilled artisan to restrict Becerra’s input range accordingly.” See the Answer at page 15. However, the fact remains that there is no teaching, suggestion or incentive to restrict Becerra’s input range; instead, there is simply a teaching in Becerra to provide the

flexibility of the input data control for the animation. Thus, not only is there no need or suggestion in Becerra to restrict the options, it would simply run contrary to the stated purpose of Becerra to allow users to create *dynamic* and *interactive* animations.

With respect to claim 2 (and related claims 20 and 30), the Answer apparently argues that it would somehow be obvious to not only place Devine's spreadsheet into the Becerra invention, but also to show a spreadsheet within the final display of Becerra. However, Appellant submits this would make no sense, since the whole point of Becerra is to utilize advanced graphics and animation software "to create dynamic, interactive and *content-rich* computer graphics animations[.]" Emphasis added. See Becerra at, for example, numbered paragraph 0008.

With regard to claim 3, the Answer alleges that "Devine teaches running a spreadsheet "hidden". Just to clarify, Appellant submits that it is the service workbooks of interest that are hidden in Devine, while the spreadsheet application remains unhidden and accessible to the user.

The Answer also apparently misinterprets claim 3 as meaning that changing of the logic of the spreadsheet is avoided. However, claim 3 clearly recites avoiding re-coding of the logic of the spreadsheet. The Answer goes on to allege that although Becerra's algorithms and formulas are imported (replicated) from the spreadsheet into the control panel, the logic of the spreadsheet is not altered. However, as noted, claim 3 does not recite altering of the logic of the spreadsheet, but re-coding of the same. Moreover, it is precisely this importation (replication) that claim 3 seeks to avoid.

With regard to claim 5, the Answer alleges that Becerra uses spreadsheet tabs during at least the design phase. However, claim 5 clearly recites that the tabs are for the interface, which, when compared to Becerra, would mean that Becerra would have to be including tabs in the control panel (the control panel is Becerra's interface). Of course, tabs in the control panel make no sense and are only present in the spreadsheet from which Becerra imports formulas, data and algorithms. Further, as remarked above, such simple visual renderings would run counter to the content-richness Becerra seeks to provide. Moreover, the tabs in the spreadsheet from which Becerra imports data, formulas and algorithms are simply worksheet tabs (i.e., sheet 1, sheet 2, etc.), and not input-output tabs. Therefore, Appellant continues to submit that claim 5 cannot be rendered obvious over Becerra in view of Devine, and in further view of Mujica.


With regard to claim 6 (and related claims 22 and 32), the Answer apparently equates importing of data, formulas and algorithms in Becerra with the claimed interaction between the interface and the spreadsheet. However, Appellant submits that the Becerra importation from the spreadsheet to the control panel is, by nature, a one-way transfer. Once a transfer is complete, there is no need for any type of interaction between the control panel and the spreadsheet of Becerra. In contrast, an interaction by nature implies some type of reciprocal action or two-way influence. Appellant submits that a one-way transfer of information is simply different from the claimed interaction between the interface and the spreadsheet.

With regard to claim 7 (and related claims 23 and 33), as with claim 6, Appellant submits that there is no interaction (i.e., two-way) between the Becerra spreadsheet and the control panel. Rather, data, formulas and algorithms are imported from the spreadsheet into the control panel.

Any changes to the input data within a range determined at importation are made via the control panel controls, and operate on the imported formulas and algorithms, not the spreadsheet. No inputs from the control panel are provided to the spreadsheet.

With regard to claim 14 (and related claim 27), the Answer alleges that Becerra teaches replacing of calculations. However, Appellant submits that Becerra does not "replace" calculations; rather, Becerra simply recalculates using different input values from the slider within the determined range, i.e., performs the same calculation with different values. Since the formulas and algorithms are imported into the control panel in Becerra, any different formulas or algorithms would need to be re-imported. Thus, Appellant submits that re-coding of the control panel in Becerra would be necessary.

In conclusion, Appellant maintains that none of claims 1-14, 19-27 and 29-37 are obvious over Becerra Jr. (U.S. Patent Application Publication No. 2003/0169295) in view of Devine et al. (U.S. Patent Application Publication No. 2002/0095399), and further in view of Mujica et al. (U.S. Patent Application Publication No. 2003/0117447). Therefore, Appellant submits that the final Office Action should be reversed in all respects.


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Dated: May 20, 2008.

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